

**Article 8: Implementation Procedures for the California Environmental
Quality Act and the State CEQA Guidelines**

**Division 3: Procedures for Preparation and Review of Environmental Documents
and Completion of the Environmental Review Process**

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§128.0301 Purpose of Procedures for Preparation and Review of Environmental
Documents and Completion of the Environmental Review Process**

The purpose of these procedures is to implement CEQA and the State CEQA Guidelines for the adequate, independent, and timely preparation and review of environmental documents and completion of the environmental review process.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0302 Time Limits for Preparation of Environmental Documents

- (a) In accordance with CEQA, Section 21151.5, completion and certification of a Negative Declaration shall not exceed 180 calendar days from the date the application for proposed *development* is *deemed complete*. Completion and certification of an EIR shall not exceed one year from the date the application is *deemed complete*.
- (b) These time limits for document preparation and review are contingent upon the project applicant's actions and shall be in conformance with the provisions of the Permit Streamlining Act, Government Code Section 65920, et. seq., except that time limits may be suspended as provided in the State CEQA Guidelines, Section 15109.
- (c) The one year time limit set forth in (a) above may be extended once for a period of not more than 90 days upon consent of the Planning and Development Review Director and the *applicant*.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0303 Who May Prepare an Environmental Document for the City

- (a) The Planning and Development Review Director shall be responsible for preparation of environmental documents required by this article. The Planning and Development Review Director is authorized to retain consultants to implement the provisions of this section and expend funds collected in accordance with Section 128.0206 for this purpose.
- (b) The Planning and Development Review Director may choose one or more of the following alternatives for preparing a draft environmental document:
 - (1) Have City staff prepare the draft environmental document;
 - (2) Contract with another entity, public or private, to prepare the draft environmental document;
 - (3) Execute a three-party agreement or memorandum of understanding with the *applicant* and an independent environmental consultant to govern the preparation of a draft environmental document by the independent environmental consultant based on a scope of work prepared by the Planning and Development Review Director; or
 - (4) Allow a draft environmental document to be prepared by an environmental consultant retained by the *applicant* based on a scope of work prepared by the Planning and Development Review Director.
- (c) An environmental document prepared in accordance with this section shall be subject to the requirements for independent review and analysis set forth in Section 128.0103(b) and shall not be released for public review until the Planning and Development Review Director determines that the document is adequate.
- (d) The Planning and Development Review Director shall review and consider for inclusion in an environmental document any information regarding the project submitted by any person.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0304 Notice of Preparation of an Environmental Impact Report

After the Planning and Development Review Director has determined that an EIR is required for a project, the Planning and Development Review Director shall send to each Responsible Agency, each Federal Agency involved in approving or funding the project, and each Trustee Agency responsible for natural resources affected by the project a Notice of Preparation stating that an EIR will be prepared. The contents, distribution, and procedures for the Notice of Preparation shall be consistent with the State CEQA Guidelines, Section 15082.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0305 Public Notice of Draft Environmental Documents

- (a) Notice of Availability of a Draft Environmental Document. When a draft environmental document has been prepared and is available for public review and comment, the City Manager shall prepare and distribute a Notice of Availability.
 - (1) Content. The Notice of Availability of a draft environmental document shall include the following information:
 - (A) A brief description of the proposed *development* and its location;
 - (B) The address at which copies of the draft environmental document will be available for public review;
 - (C) The dates of the public review period; and
 - (D) The address to which written comments may be sent.
 - (2) Distribution. The City Manager shall distribute the notice as follows:
 - (A) By publishing the Notice of Availability one time in a newspaper of general daily circulation;
 - (B) By sending copies of the Notice of Availability to all organizations and individuals who have previously requested the notice;

- (C) By sending a copy of the Notice of Availability to the officially recognized community planning group that represents the planning area where the proposed *development* is located; and
 - (D) By sending a copy of the Notice of Availability to the public library serving the area involved.
- (3) Community Newspaper Notification. The City Manager may send a copy of the Notice of Availability to a community newspaper within the community planning area where the proposed *development* is located.
- (b) In addition, as soon as a draft EIR is completed, a Notice of Completion must be filed with the State Office of Planning and Research consistent with the State CEQA Guidelines, Section 15085.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0306 Required Time Periods for Public Review and Comment of Draft Environmental Documents

Other public agencies and members of the public shall have the following time periods to review and comment on draft environmental documents:

- (a) Negative Declarations, Mitigated Negative Declarations, and Environmental Impact Reports

The public review period shall be consistent with that established by CEQA and the State CEQA Guidelines.

- (b) Addenda

All addenda for environmental documents certified more than 3 years before the date of application shall be distributed for public review for 14 calendar days along with the previously certified environmental document. However, this review period for the addenda shall not extend the time for action beyond that required under law, and the failure to allow review of addenda, or allow sufficient time to review addenda, shall not invalidate any discretionary approval based upon an addendum under review.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0307 Requests for Additional Public Review Time on the Draft Environmental Document

The Planning and Development Review Director may approve a request from the affected officially recognized community planning group or *interested party* if there is no officially recognized community planning group for an additional review period not to exceed 14 calendar days. The additional time for review shall not extend the time for action beyond that required under law. The failure to allow additional time for review shall not invalidate any discretionary approval based upon the document for which the additional review time was requested.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0308 Responses to Comments on the Draft Environmental Documents

The Planning and Development Review Director shall prepare, or supervise preparation of, written responses to letters of comment received during the public review period for all environmental documents. Both the letters of comment and the responses shall be attached to the final environmental document.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0309 Recirculation of a Draft Environmental Document

When significant new information is added to an environmental document after notice is given of the availability of the document for public review but before it is certified, the Planning and Development Review Director shall recirculate the draft environmental document consistent with the State CEQA Guidelines, Section 15088.5.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0310 Final Environmental Document Preparation, Distribution and Public Review

A final environmental document consisting of all information required by CEQA and the State CEQA Guidelines and any other information the Planning and Development Review Director may add shall be prepared and distributed for review.

(a) Final Environmental Document Distribution

At least 14 calendar days before the first public hearing or discretionary action on the project, the Planning and Development Review Director shall make all

final environmental documents available to the public and decision makers and shall also mail copies of final environmental documents to the officially recognized community planning groups and members of the public who commented on the draft document. Failure to provide this 14-calendar-day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law. The Planning and Development Review Director shall provide a final EIR to any public agency that commented on the draft document consistent with CEQA.

(b) Comment on Final Environmental Document

The intent of the final review period is to provide other public agencies, the public, and the decision makers the opportunity to review the final document before the first public hearing or discretionary action on the project. No comments will be solicited and no written responses to comments on final environmental documents shall be prepared.

(Added 6-19-2000 by O-18814 N.S.)

§128.0311 Certification of an Environmental Document

(a) Except as provided in Section 128.0311(b) and (c), before approving a *development permit* or other discretionary action, the decision maker shall certify that:

- (1) The final environmental document has been completed in compliance with CEQA and the State CEQA Guidelines; and
- (2) The information contained in the final environmental document reflects the independent judgment of the City of San Diego as the Lead Agency and has been reviewed and considered by the decision maker before approving the project.

(b) If the environmental document has been previously certified because the decision is being heard on appeal, because the City is acting as a Responsible Agency, or because of reuse of a previously certified document, subsequent discretionary approvals on the same project shall not require recertification of any previously certified environmental document prepared in connection with the project. In this case, the decision maker need not certify as required by Section 128.0311(a)(1) but shall state the information contained in Section 128.0311(a)(2) for the record. Nothing in this section shall be deemed to preclude the Planning and Development Review Director from reviewing the

previously certified document to determine whether any supplemental information or document may be necessary.

- (c) If the decision maker denies the project, the environmental document need not be certified.

(Added 6-19-2000 by O-18814 N.S.)

§128.0312 Adoption of Candidate Findings and Statement of Overriding Considerations by the Decision Maker

Before approving a project for which the final EIR identifies one or more significant effects, the decision maker shall adopt the required *findings* in accordance with the State CEQA Guidelines, Section 15091. When the decision to approve the project allows the occurrence of significant effects that are identified in the final EIR but are not at least substantially mitigated, the decision maker shall make a statement of overriding considerations stating the specific reasons to support the decision based on the final EIR and other information in the record in accordance with the State CEQA Guidelines, Section 15093.

- (a) Review of Further Information

If before making a decision, the decision maker determines that substantive additional information has been presented at the public hearing requiring further review, the decision maker may refer the information to the Planning and Development Review Director for analysis, provided the referral does not adversely affect any time limits imposed by law.

- (b) Preparation of Adopted *Findings*

The adopted *findings* and the statement of overriding considerations shall be in writing and shall be based on the entire record of proceedings.

(Added 6-19-2000 by O-18814 N.S.)

§128.0313 Notice of Determination

The Planning and Development Review Director shall file a Notice of Determination following each project approval for which an environmental document was considered. The contents of the Notice of Determination and procedures for its filing shall be consistent with the State CEQA Guidelines, Section 15075 and 15094.

(Added 6-19-2000 by O-18814 N.S.)

§128.0314 Erroneous Information in Environmental Documents

- (a) If the City Manager determines that an environmental document was certified based on erroneous information that was both material to, and had a substantial effect on, the *findings* and conclusions of the document and any related statement of overriding considerations, the City Manager shall determine the need for corrective action. If the City Manager determines that necessary corrective action cannot be taken in accordance with the provisions of CEQA and the State CEQA Guidelines, the permit revocation authority and procedures of Sections 121.0313 through 121.0316 shall be used.
- (b) This section shall not apply if the information originally submitted was considered valid at the time of certification of the environmental document but later methodology establishes that the information is no longer valid.

(Amended 6-12-2001 by O-18948 N.S.)